UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,774	11/05/2001	Shigenori Morikawa	01711/LH	5900

1933 7590 03/08/2006		EXAMINER
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ART UNIT	PAPER NUMBER
2667	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *22 November 2005*.
2a) ☐ This action is **FINAL**.　　2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1,3-6,9-11 and 13* is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) *11 and 13* is/are allowed.
6) ☒ Claim(s) *1-5* is/are rejected.
7) ☒ Claim(s) *6* is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a) ☐ All　b) ☐ Some * c) ☐ None of:
　　　1. ☐ Certified copies of the priority documents have been received.
　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 1-11 have been considered but are

moot in view of the new ground(s) of rejection.

Specification

2.   The disclosure is objected to because of the following informalities: On p. 11, ln.

7-17 of the Specification, as amended on p. 11 in the Amendment dated November 22,

2005, Examiner suggests replacing – units of 1 yen – with "increments of 1 yen", in

consistent with the amended text on p. 8 in the same Amendment.

        Appropriate correction is required.

Claim Objections

3.   Claim 11 is objected to because of the following informalities: Examiner

suggests removing the extra word "that" in ln. 17 of the judging means.

        Appropriate correction is required.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   **Claims 1-5,9-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Muratani et al. (U.S. Pat No. 6,119,109) in view of Barna et al. (Pub. No.

US2002/0046277 A1).

With regard to cl. 1, Muratani discloses a data communication terminal 14 (user

terminal) comprising: (see Fig. 3)

data communication means 24 (billing processor, col. 8, ln. 4) for connecting to a

communication network 10 (computer network), in which accounting is made according

to a transmitted/received data amount ("a billing method corresponding to the quantity

of data", col. 8, ln. 2) (See also "billing in unit of information quantity", col. 18, ln. 23-41),

to carry out data communication;

means for 24 (billing processor) recognizing a start (data utilization start timing,

col. 8, ln. 7) and an end (utilization completion timing, col. 8, ln. 8) of

transmission/reception of a set of transmitted/received objective data;

means for 24 (billing processor) measuring a transmitted/received data amount

from the start to the end of transmission/reception of the set of objective data (the billing

processor 24 obtains time for which data is utilized in accordance with data utilization

start timing and utilization completion timing, col. 8, ln. 6-8); and

means for 152,153 (charging processing module and settlement processing

module) judging whether or not the measured transmitted/received data amount has

reached specified data amount (a limit) ("The charge calculation/settlement process ...

may continuously be performed during provision of information ... The billing process is

ended ... when a detection is performed that the charge has exceeded a limit during the

calculation of the charge", col. 15, ln. 63-col. 16, ln. 10).

However, Muratani fails to explicitly show means for, when it is judged that the

measured transmitted/received data amount has reached the specified data amount,

temporarily suspending transmission/reception of the set of objective data, receiving an

instruction to resume or terminate transmission/reception of the set of objective data

from the user, and resuming or terminating transmission/reception of the set of objective

data in accordance with the instruction.

In an analogous art ("...charges should preferably be based on the volume of

data ...", para. [0005]), Barna discloses means for (accounting server in Fig. 1)(See

also "the accounting server may include a prepaid server PPS function ...", para.

[0013]), when it is judged that the measured transmitted/received data amount 34,35

(Accounting interim) has reached the specified data amount (threshold or

predetermined volume of data) (it is obvious that there is a limit in prepaid) (a *prepaid*

data session, para. [0008]; See also a configurable *threshold* size, para. [0009]) (See

also "the PPS function informs the accounting server of a *predetermined volume of*

data...", para. [0013]), temporarily suspending 36,37 (Accounting request stop) (See

also "a message from the PPS to the Prepaid subscriber to warn the subscriber of a

possible exhaustion of credit or account balance ...", para. [0026])

transmission/reception of the set of objective data, receiving an instruction to resume

39-43 (Accounting response and Accounting request start) or terminate 47,48

(Accounting request stop) transmission/reception of the set of objective data from the user, and resuming or terminating transmission/reception of the set of objective data in accordance with the instruction (See 33-53 in Fig. 1).

At the time of the invention, it would have been obvious to a person or ordinary skill in the art to include means for, when it is judged that the measured transmitted/received data amount has reached the specified data amount, temporarily suspending transmission/reception of the set of objective data, receiving an instruction to resume or terminate transmission/reception of the set of objective data from the user, and resuming or terminating transmission/reception of the set of objective data in accordance with the instruction. The suggestion/motivation for doing so would have been to provide for charges that are based on the volume of data transferred to and from a given user. Barna, para. [0005]. Therefore, it would have been obvious to combine Barna with Muratani for the benefit of billing by volume of data, to obtain the invention as specified in cl. 1.

With regard to cl. 3, the combination of Muratani and Barni discloses a data communication terminal according to cl. 1.

However, Muratani fails to explicitly show a plurality of packets to be transmitted/received continuously based on an instruction from a user.

In an analogous art, Barni discloses a plurality of packets (packet data session, para. [0005]) to be transmitted/received continuously based on an instruction 39-43

(Accounting response and Accounting request start in Fig. 1) from a user (prepaid

subscriber).

At the time of the invention, it would have been obvious to a person or ordinary

skill in the art to include a plurality of packets to be transmitted/received continuously

based on an instruction from a user. The suggestion/motivation for doing so would

have been to provide for charges that are based on the volume of data transferred to

and from a given user. Barna, para. [0005]. Therefore, it would have been obvious to

combine Barna with Muratani for the benefit of billing by volume of data, to obtain the

invention as specified in cl. 3.

With regard to cl. 4, Muratani further discloses the set of objective data

(multimedia information and proprietary information, col. 1, ln. 26-33) is a set of sub

data (some information are composed of a plurality of information contents, col. 1, ln.

66-67) based on tag information which is contained in another set of objective data, and

which instructs the data communication terminal to read the set of sub data 3,4

(correspondence information and billing attribute data, col. 5, ln. 17-18)

With regard to cl. 5, Muratani discloses a data communication terminal 14 (user

terminal) comprising: (see Fig. 3)

data communication means 24 (billing processor, col. 8, ln. 4) for connecting to a

communication network 10 (computer network), in which accounting is made according

to a transmitted/received data amount ("a billing method corresponding to the quantity

of data", col. 8, ln. 2) (See also "billing in unit of information quantity", col. 18, ln. 23-41),

to carry out data communication;

means for 24 (billing processor) recognizing a start (data utilization start timing,

col. 8, ln. 7) and an end (utilization completion timing, col. 8, ln. 8) of

transmission/reception of a set of transmitted/received objective data;

means for 24 (billing processor) measuring a transmitted/received data amount

from the start to the end of transmission/reception of the set of objective data (the billing

processor 24 obtains time for which data is utilized in accordance with data utilization

start timing and utilization completion timing, col. 8, ln. 6-8); and

means for 152,153 (charging processing module and settlement processing

module) judging whether or not the measured transmitted/received data amount has

reached specified data amount (a limit) ("The charge calculation/settlement process ...

may continuously be performed during provision of information ... The billing process is

ended ... when a detection is performed that the charge has exceeded a limit during the

calculation of the charge", col. 15, ln. 63-col. 16, ln. 10).

However, Muratani fails to explicitly show means for setting an upper limit value

corresponding to a maximum allowed data amount for continuous

transmission/reception of any set of objective data; wherein the judgment by the judging

means is performed such that, when the set upper limit value is reached, it is judged

that the transmitted/received data amount has reached the specified data amount.

In an analogous art, Barna discloses show means for ("The accounting server may include a Prepaid Server (PPS) function that maintains an account balance for the end user...", para. [0013]) setting an upper limit value (a predetermined volume of data, para. [0013]) corresponding to a maximum allowed data amount for continuous transmission/reception of any set of objective data; wherein the judgment by the judging means is performed such that, when the set upper limit value is reached, it is judged that the transmitted/received data amount has reached the specified data amount ("the PPS function notifies the accounting server...", para. [0013]).

At the time of the invention, it would have been obvious to a person or ordinary skill in the art to include means for setting an upper limit value corresponding to a maximum allowed data amount for continuous transmission/reception of any set of objective data; wherein the judgment by the judging means is performed such that, when the set upper limit value is reached, it is judged that the transmitted/received data amount has reached the specified data amount. The suggestion/motivation for doing so would have been to provide for charges that are based on the volume of data transferred to and from a given user. Barna, para. [0005]. Therefore, it would have been obvious to combine Barna with Muratani for the benefit of billing by volume of data, to obtain the invention as specified in cl. 5.

Allowable Subject Matter

6.   **Claims 11 and 13** are allowed.

7.   Claim 6 is objected to as being dependent upon a rejected base claim, but would

be allowable if rewritten in independent form including all of the limitations of the base

claim and any intervening claims.

Conclusion

8.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Blanche Wong whose telephone number is 571-272-
3177. The examiner can normally be reached on Monday through Friday, 830am to
530pm.
    If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Chi H. Pham can be reached on 571-272-3179. The fax phone number for
the organization where this application or proceeding is assigned is 571-273-8300.
    Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
Status information for unpublished applications is available through Private PAIR only.
For more information about the PAIR system, see http://pair-direct.uspto.gov. Should
you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

BW
February 15, 2006

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